

Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

CHICAGO METROPOLITAN AREA ) Docket No.(s) 92-16-1228  
CHAPTER OF NOBLE, REGION IV ) PI No.(s) 25-21-108-040  
) (Cook County)  
)  
Applicant )  
)  
v. )  
)  
THE DEPARTMENT OF REVENUE ) George H. Nafziger  
OF THE STATE OF ILLINOIS ) Administrative Law Judge  
)

APPEARANCES Mr. Michael G. Thomas, attorney for Chicago Metropolitan Area Chapter of Noble, Region IV (hereinafter referred to as "Chicago Chapter"), appeared on behalf of that organization.

SYNOPSIS A hearing was held in this matter on June 29, 1994, to determine whether or not the parcel here in issue and the building thereon, qualified for exemption from real estate tax for the 1992 assessment year. Is Chicago Chapter a charitable organization? Did Chicago Chapter own the parcel here in issue during the 1992 assessment year? Did Chicago Chapter use the parcel here in issue and the building thereon, for charitable purposes during the 1992 assessment year? Following the submission of all of the evidence and a review of the record, it is determined that Chicago Chapter has failed to establish that it is primarily a charitable organization. It is also determined that Chicago Chapter has failed to establish that it owned the parcel here in issue during the 1992 assessment year. It is therefore not necessary to determine whether or not the parcel here in issue and the building thereon, were primarily used for charitable

purposes during the 1992 assessment year.

FINDINGS OF FACT      The Department's position in this matter was established by the admission in evidence of Department's Exhibits 1 through 6B.

On June 21, 1993, the Cook County Board of Appeals forwarded an Application for Property Tax Exemption To Board of Appeals, concerning the parcel here in issue and the building thereon, for the 1992 assessment year, to the Illinois Department of Revenue (Department's Exhibit 2). On January 6, 1994, the Department of Revenue denied the exemption of the parcel here in issue and the building thereon, for the 1992 assessment year. On January 25, 1994, Wilson H. Pierce, president of the Chicago Chapter, wrote a letter to the Department of Revenue, requesting a formal hearing in this matter (Department's Exhibit 4). The hearing held on June 29, 1994, was held pursuant to that request.

At the hearing, Mr. William Shaw, past president of Chicago Chapter, Mr. Wilson H. Pierce, president of Chicago Chapter, and Mr. Freddie Frazier, Jr., treasurer of Chicago Chapter, were present, and testified on behalf of Chicago Chapter.

Chicago Chapter was incorporated pursuant to the "General Not For Profit Corporation Act" of Illinois, on December 8, 1982, for the following purposes:

- "1. To provide a platform from which the concerns and opinions of minority law enforcement executive and command level officers can be expressed.
2. To develop mechanisms to facilitate the exchange of programmatic information among minority law enforcement executives.
3. To work for immediate implementation of effective programs to increase minority participation at all levels of law enforcement.
4. To develop strategies for the elimination of racism in the field of criminal justice.
5. To work with the community to achieve greater involvement

and cooperation with criminal justice agencies.

6. To impact upon urban crime and violence.

7. To conduct and publish criminal justice research."

The Chicago Chapter is a Region IV regional member of the National Organization of Black Law Enforcement Executives (hereinafter referred to as NOBLE"). NOBLE is a national organization, headquartered in Alexandria, Virginia.

The only evidence offered by Chicago Chapter concerning ownership of the parcel here in issue is a Trustee's Deed, dated November 18, 1991, conveying this parcel and the building thereon, to the following:

"National Organization of Black Law Enforcement Executives, an Illinois Not-For-Profit Corporation."

The foregoing language clearly does not identify the Chicago Chapter as owner. Shortly after the copy of the recorded trustee's deed was submitted, an affidavit of Wilson H. Pierce was also submitted, which alleged that the above grantee in the Trustee's Deed and the Chicago Chapter were one and the same. However, Mr. Pierce was not president of Applicant on November 18, 1991, when the Trustee's Deed was executed. In fact, from a review of the records in the file, it does not appear that he was an officer of the Chicago Chapter at that time. Mr. Shaw, the past president of Chicago Chapter, who was president on November 18, 1991, and also was present and testified at the hearing in this matter, did not address that issue in his testimony.

During 1992, the members of the Chicago Chapter were also members of NOBLE. To be a regular member of NOBLE, the dues were \$75.00 per year. The dues for an associate member of NOBLE were \$45.00 per year, and for a supporting member, \$30.00 per year. During 1992, the Chicago Chapter dues were \$25.00 per year for all members. The provision of the Constitution of NOBLE, concerning membership, ends with a sentence which reads as follows:

"In any case, the National Executive Board reserves the right to make the final determination of membership eligibility."

No evidence was offered that dues for either NOBLE or the Chicago Chapter were ever waived, or reduced, in cases of need. The primary sources of funds of the Chicago Chapter, during 1992, were dues and fund-raisers, including a dinner dance, an ad book, and a Christmas raffle.

1. I find that Chicago Chapter is the organization, which occupied the parcel here in issue and the building thereon, during 1992, and which is seeking the exemption in this matter.

2. I further find that in view of the designation of the grantee in the Trustee's Deed dated November 18, 1991, Chicago Chapter has failed to establish that it was the owner of the parcel here in issue during the 1992 assessment year.

3. Since no evidence was offered that Chicago Chapter ever waived, or reduced dues, in cases of need, I find the benefits of membership in Chicago Chapter were not available to an indefinite number of persons, that the benefits of the services of Chicago Chapter were not dispensed to all who needed and applied for them, and that an obstacle, namely membership dues was placed in the way of those seeking the benefits.

4. Finally, since the purpose clause of Chicago Chapter's Articles of Incorporation, while including some purposes which may be considered to benefit the general public, also included purposes concerning the advancement of, and also the benefit of, Chicago Chapter's dues-paying minority law enforcement executives, I find that it has not been established that Chicago Chapter was primarily organized for charitable purposes.

CONCLUSIONS OF LAW Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and

horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.7 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...."

In view of the foregoing provision, both ownership and use by a charitable organization, is required.

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

It is also well settled in Illinois that the character and purpose for which a corporation is organized, must be ascertained from its Articles of Incorporation. *People v. Wyanett Light Co.*, 306 Ill. 377 (1922), and also, *Rotary International v. Paschen*, 14 Ill.2d 480 (1958). I have previously found that it has not been established that Chicago Chapter was primarily organized for charitable purposes. I therefore conclude that Chicago Chapter has failed to establish that it is primarily organized for charitable purposes.

In the case of *Methodist Old Peoples Home v. Korzen*, 39 Ill.2d 149 (1968), the Illinois Supreme Court set forth six guidelines to be used in

determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in the charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. I have previously found that Chicago Chapter failed to meet guidelines (1), (4), and (5), of the foregoing guidelines. I therefore conclude that Chicago Chapter has failed to establish that it was a charitable organization.

I also conclude, in view of the language concerning the grantee in the Trustee's Deed in this matter, that the Chicago Chapter has failed to establish that it owned the parcel here in issue during the 1992 assessment year.

Since it is concluded that Chicago Chapter failed to establish that it owned the parcel here in issue during the 1992 assessment year, or that it was a charitable organization, it is not necessary to consider whether or not Chicago Chapter used the parcel here in issue and the building thereon, for charitable purposes during the 1992 assessment year.

I therefore recommend that Cook County parcel No. 25-21-108-040 and the improvements thereon, remain on the tax rolls for the 1992 assessment year.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

March , 1995